

LEGISLATURE OF NEBRASKA  
 ONE HUNDREDTH LEGISLATURE  
 SECOND SESSION  
**LEGISLATIVE BILL 846**

FINAL READING

(SECOND)

Introduced by Fischer, 43.

Read first time January 10, 2008

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
 2 66-4,103, 66-697, and 66-6,109, Reissue Revised Statutes  
 3 of Nebraska, sections 39-2215, 66-482, 66-485, 66-488,  
 4 66-489.01, 66-495.01, 66-499, 66-4,105, 66-4,114,  
 5 66-4,145, 66-4,146, 66-6,107, 66-6,111, and 66-726,  
 6 Revised Statutes Cumulative Supplement, 2006, and  
 7 sections 66-489 and 84-612, Revised Statutes Supplement,  
 8 2007; to provide and change taxes on motor fuels;  
 9 to change allocation of tax proceeds; to provide for  
 10 transfers from the Cash Reserve Fund; to harmonize  
 11 provisions; to provide operative dates; and to repeal the

1                   original sections.

2   Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 39-2215, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           39-2215 (1) There is hereby created in the state treasury  
4 a special fund to be known as the Highway Trust Fund.

5           (2) All funds credited to the Highway Trust Fund pursuant  
6 to sections 66-499, 66-4,140, 66-4,147, and 66-6,108 and sections  
7 11 and 17 of this act, and related penalties and interest, shall be  
8 allocated as provided in such sections.

9           (3) All other motor vehicle fuel taxes, diesel fuel  
10 taxes, compressed fuel taxes, and alternative fuel taxes related to  
11 highway use retained by the state, all motor vehicle registration  
12 fees retained by the state other than those fees credited to  
13 the State Recreation Road Fund pursuant to subdivision (3) of  
14 section 60-3,156, and other highway-user taxes imposed by state  
15 law and allocated to the Highway Trust Fund, except for the  
16 proceeds of the sales and use taxes derived from motor vehicles,  
17 trailers, and semitrailers credited to the fund pursuant to section  
18 77-27,132, are hereby irrevocably pledged for the terms of the  
19 bonds issued prior to January 1, 1988, to the payment of the  
20 principal, interest, and redemption premium, if any, of such bonds  
21 as they mature and become due at maturity or prior redemption  
22 and for any reserves therefor and shall, as received by the State  
23 Treasurer, be deposited in the fund for such purpose.

24           (4) Of the money in the fund specified in subsection  
25 (3) of this section which is not required for the use specified

1 in such subsection, (a) an amount equal to three dollars times  
2 the number of motorcycles registered during the previous month  
3 shall be placed in the Motorcycle Safety Education Fund, (b) an  
4 amount to be determined annually by the Legislature through the  
5 appropriations process may be transferred to the Motor Fuel Tax  
6 Enforcement and Collection Cash Fund for use as provided in section  
7 66-738 on a monthly or other less frequent basis as determined by  
8 the appropriation language, (c) an amount to be determined annually  
9 by the Legislature through the appropriations process shall be  
10 transferred to the License Plate Cash Fund as certified by the  
11 Director of Motor Vehicles, and (d) the remaining money may be  
12 used for the purchase for retirement of the bonds issued prior to  
13 January 1, 1988, in the open market.

14 (5) The State Treasurer shall monthly transfer, from the  
15 proceeds of the sales and use taxes credited to the Highway Trust  
16 Fund and any money remaining in the fund after the requirements of  
17 subsections (2) through (4) of this section are satisfied, thirty  
18 thousand dollars to the Grade Crossing Protection Fund.

19 (6) Except as provided in subsection (7) of this  
20 section, the balance of the Highway Trust Fund shall be allocated  
21 fifty-three and one-third percent, less the amount provided for  
22 in section 39-847.01, to the Department of Roads, twenty-three  
23 and one-third percent, less the amount provided for in section  
24 39-847.01, to the various counties for road purposes, and  
25 twenty-three and one-third percent to the various municipalities

1 for street purposes. If bonds are issued pursuant to subsection  
2 (2) of section 39-2223, the portion allocated to the Department  
3 of Roads shall be credited monthly to the Highway Restoration  
4 and Improvement Bond Fund, and if no bonds are issued pursuant  
5 to such subsection, the portion allocated to the department  
6 shall be credited monthly to the Highway Cash Fund. The portions  
7 allocated to the counties and municipalities shall be credited  
8 monthly to the Highway Allocation Fund and distributed monthly as  
9 provided by law. Vehicles accorded prorated registration pursuant  
10 to section 60-3,198 shall not be included in any formula involving  
11 motor vehicle registrations used to determine the allocation and  
12 distribution of state funds for highway purposes to political  
13 subdivisions.

14 (7) If it is determined by December 20 of any year that a  
15 county will receive from its allocation of state-collected highway  
16 revenue and from any funds relinquished to it by municipalities  
17 within its boundaries an amount in such year which is less than  
18 such county received in state-collected highway revenue in calendar  
19 year 1969, based upon the 1976 tax rates for highway-user fuels and  
20 registration fees, the Department of Roads shall notify the State  
21 Treasurer that an amount equal to the sum necessary to provide such  
22 county with funds equal to such county's 1969 highway allocation  
23 for such year shall be transferred to such county from the Highway  
24 Trust Fund. Such makeup funds shall be matched by the county as  
25 provided in sections 39-2501 to 39-2510. The balance remaining in

1 the fund after such transfer shall then be reallocated as provided  
2 in subsection (6) of this section.

3 (8) The State Treasurer shall disburse the money in the  
4 Highway Trust Fund as directed by resolution of the commission.  
5 All disbursements from the fund shall be made upon warrants drawn  
6 by the Director of Administrative Services. Any money in the fund  
7 available for investment shall be invested by the state investment  
8 officer pursuant to the Nebraska Capital Expansion Act and the  
9 Nebraska State Funds Investment Act and the earnings, if any,  
10 credited to the fund.

11 Sec. 2. Section 66-482, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 66-482 For purposes of sections 66-482 to 66-4,149 and  
14 section 11 of this act:

15 (1) Motor vehicle shall have the same definition as in  
16 section 60-339;

17 (2) Motor vehicle fuel shall include all products and  
18 fuel commonly or commercially known as gasoline, including casing  
19 head or natural gasoline, and shall include any other liquid and  
20 such other volatile and inflammable liquids as may be produced,  
21 compounded, or used for the purpose of operating or propelling  
22 motor vehicles, motorboats, or aircraft or as an ingredient in  
23 the manufacture of such fuel. Agricultural ethyl alcohol produced  
24 for use as a motor vehicle fuel shall be considered a motor  
25 vehicle fuel. Motor vehicle fuel shall not include the products

1 commonly known as methanol, kerosene oil, kerosene distillate,  
2 crude petroleum, naphtha, and benzine with a boiling point over  
3 two hundred degrees Fahrenheit, residuum gas oil, smudge oil,  
4 leaded automotive racing fuel with an American Society of Testing  
5 Materials research method octane number in excess of one hundred  
6 five, and any petroleum product with an initial boiling point under  
7 two hundred degrees Fahrenheit, a ninety-five percent distillation  
8 (recovery) temperature in excess of four hundred sixty-four degrees  
9 Fahrenheit, an American Society of Testing Materials research  
10 method octane number less than seventy, and an end or dry point of  
11 distillation of five hundred seventy degrees Fahrenheit maximum;

12 (3) Agricultural ethyl alcohol shall mean ethyl alcohol  
13 produced from cereal grains or agricultural commodities grown  
14 within the continental United States and which is a finished  
15 product that is a nominally anhydrous ethyl alcohol meeting  
16 American Society for Testing and Materials D4806 standards. For  
17 the purpose of sections 66-482 to 66-4,149 and section 11 of this  
18 act, the purity of the ethyl alcohol shall be determined excluding  
19 denaturant and the volume of alcohol blended with gasoline for  
20 motor vehicle fuel shall include the volume of any denaturant  
21 required pursuant to law;

22 (4) Alcohol blend shall mean a blend of agricultural  
23 ethyl alcohol in gasoline or other motor vehicle fuel, such blend  
24 to contain not less than five percent by volume of alcohol;

25 (5) Supplier shall mean any person who owns motor fuels

1 imported by barge, barge line, or pipeline and stored at a barge,  
2 barge line, or pipeline terminal in this state;

3 (6) Distributor shall mean any person who acquires  
4 ownership of motor fuels directly from a producer or supplier  
5 at or from a barge, barge line, pipeline terminal, or ethanol or  
6 biodiesel facility in this state;

7 (7) Wholesaler shall mean any person, other than a  
8 producer, supplier, distributor, or importer, who acquires motor  
9 fuels for resale;

10 (8) Retailer shall mean any person who acquires motor  
11 fuels from a producer, supplier, distributor, wholesaler, or  
12 importer for resale to consumers of such fuel;

13 (9) Importer shall mean any person who owns motor fuels  
14 at the time such fuels enter the State of Nebraska by any means  
15 other than barge, barge line, or pipeline. Importer shall not  
16 include a person who imports motor fuels in a tank directly  
17 connected to the engine of a motor vehicle, train, watercraft, or  
18 airplane for purposes of providing fuel to the engine to which the  
19 tank is connected;

20 (10) Exporter shall mean any person who acquires  
21 ownership of motor fuels from any licensed producer, supplier,  
22 distributor, wholesaler, or importer exclusively for use or resale  
23 in another state;

24 (11) Gross gallons shall mean measured gallons without  
25 adjustment or correction for temperature or barometric pressure;

1           (12) Diesel fuel shall mean all combustible liquids and  
2 biodiesel which are suitable for the generation of power for  
3 diesel-powered vehicles, except that diesel fuel shall not include  
4 kerosene;

5           (13) Compressed fuel shall mean any fuel defined as  
6 compressed fuel in section 66-6,100;

7           (14) Person shall mean any individual, firm, partnership,  
8 limited liability company, company, agency, association,  
9 corporation, state, county, municipality, or other political  
10 subdivision. Whenever a fine or imprisonment is prescribed or  
11 imposed in sections 66-482 to 66-4,149 and section 11 of this act,  
12 the word person as applied to a partnership, a limited liability  
13 company, or an association shall mean the partners or members  
14 thereof;

15           (15) Department shall mean the Motor Fuel Tax Enforcement  
16 and Collection Division of the Department of Revenue;

17           (16) Semiannual period shall mean either the period which  
18 begins on January 1 and ends on June 30 of each year or the period  
19 which begins on July 1 and ends on December 31 of each year;

20           (17) Producer shall mean any person who manufactures  
21 agricultural ethyl alcohol or biodiesel at an ethanol or biodiesel  
22 facility in this state;

23           (18) Highway shall mean every way or place generally open  
24 to the use of the public for the purpose of vehicular travel,  
25 even though such way or place may be temporarily closed or travel

1 thereon restricted for the purpose of construction, maintenance,  
2 repair, or reconstruction;

3 (19) Kerosene shall mean kerosene meeting the  
4 specifications as found in the American Society for Testing and  
5 Materials publication D3699 entitled Standard Specifications for  
6 Kerosene;

7 (20) Biodiesel shall mean mono-alkyl esters of long  
8 chain fatty acids derived from vegetable oils or animal fats  
9 which conform to American Society for Testing and Materials D6751  
10 specifications for use in diesel engines. Biodiesel refers to the  
11 pure fuel before blending with diesel fuel;

12 (21) Motor fuels shall mean motor vehicle fuel, diesel  
13 fuel, aircraft fuel, or compressed fuel;

14 (22) Ethanol facility shall mean a plant which produces  
15 agricultural ethyl alcohol under the provisions described in  
16 section 66-1344; and

17 (23) Biodiesel facility shall mean a plant which produces  
18 biodiesel.

19 Sec. 3. Section 66-485, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 66-485 The department, for the first year of a new  
22 license or whenever it deems it necessary to insure compliance with  
23 sections 66-482 to 66-4,149 and section 11 of this act, may require  
24 any producer, supplier, distributor, wholesaler, exporter, or  
25 importer subject to such sections to place with the department such

1 security as it determines. The amount and duration of the security  
2 shall be fixed by the department and shall be approximately three  
3 times the total estimated average monthly tax liability payable  
4 by such producer, supplier, distributor, wholesaler, or importer  
5 pursuant to such sections. Such security shall consist of a surety  
6 bond executed by a surety company duly licensed and authorized  
7 to do business within this state in the amount specified by the  
8 department. In the case of an exporter, the amount and duration  
9 of the security shall be fixed by the department. Such security  
10 shall run to the Department of Revenue and be conditioned upon the  
11 payment of all taxes, interest, penalties, and costs for which such  
12 producer, supplier, distributor, wholesaler, exporter, or importer  
13 is liable, whether such liability was incurred prior to or after  
14 such security is filed.

15           Sec. 4. Section 66-488, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           66-488 (1) Every producer, supplier, distributor,  
18 wholesaler, importer, and exporter who engages in the sale,  
19 distribution, delivery, and use of motor fuels shall render and  
20 have on file with the department a return reporting the number  
21 of gallons of motor fuels, based on gross gallons, received,  
22 imported, or exported and unloaded and emptied or caused to  
23 be received, imported, or exported and unloaded and emptied by  
24 such producer, supplier, distributor, wholesaler, or importer in  
25 the State of Nebraska and the number of gallons of motor fuels

1 produced, refined, manufactured, blended, or compounded by such  
2 producer, supplier, distributor, wholesaler, or importer within  
3 the State of Nebraska, during the preceding reporting period, and  
4 defining the nature of such motor fuels. The return shall also  
5 show such information as the department reasonably requires for  
6 the proper administration and enforcement of sections 66-482 to  
7 66-4,149 and section 11 of this act. The return shall contain a  
8 declaration, by the person making the same, to the effect that the  
9 statements contained therein are true and are made under penalties  
10 of perjury, which declaration shall have the same force and effect  
11 as a verification of the return and shall be in lieu of such  
12 verification. The return shall be signed by the producer, supplier,  
13 distributor, wholesaler, importer, or exporter or a principal  
14 officer, general agent, managing agent, attorney in fact, chief  
15 accountant, or other responsible representative of the producer,  
16 supplier, distributor, wholesaler, importer, or exporter, and such  
17 return shall be entitled to be received in evidence in all courts  
18 of this state and shall be prima facie evidence of the facts  
19 therein stated. The producer, supplier, distributor, wholesaler,  
20 importer, or exporter shall file the return in such format as  
21 prescribed by the department on or before the twenty-fifth day of  
22 the next succeeding calendar month following the reporting period  
23 to which it relates. If the final filing date for such return  
24 falls on a Saturday, Sunday, or legal holiday, the next secular  
25 or business day shall be the final filing date. The return shall

1 be considered filed on time if transmitted or postmarked before  
2 midnight of the final filing date.

3 (2) For purposes of this section, reporting period means  
4 calendar month unless otherwise provided by rules and regulations  
5 of the department, but under no circumstance shall such reporting  
6 period extend beyond an annual basis.

7 Sec. 5. Section 66-489, Revised Statutes Supplement,  
8 2007, is amended to read:

9 66-489 (1) At the time of filing the return required by  
10 section 66-488, such producer, supplier, distributor, wholesaler,  
11 or importer shall, in addition to the tax imposed pursuant to  
12 sections 66-4,140, 66-4,145, and 66-4,146 and section 11 of this  
13 act and in addition to the other taxes provided for by law, pay  
14 a tax of ~~ten~~ seven and one-half cents per gallon upon all motor  
15 fuels as shown by such return, except that there shall be no  
16 tax on the motor fuels reported if (a) the required taxes on the  
17 motor fuels have been paid, (b) the motor fuels have been sold  
18 to a licensed exporter exclusively for resale or use in another  
19 state, (c) the motor fuels have been sold from a Nebraska barge  
20 line terminal, pipeline terminal, refinery, or ethanol or biodiesel  
21 facility, including motor fuels stored offsite in bulk, by a  
22 licensed producer or supplier to a licensed distributor, (d) the  
23 motor fuels have been sold by a licensed distributor or licensed  
24 importer to a licensed distributor or to a licensed wholesaler  
25 and the seller acquired ownership of the motor fuels directly from

1 a licensed producer or supplier at or from a refinery, barge,  
2 barge line, pipeline terminal, or ethanol or biodiesel facility,  
3 including motor fuels stored offsite in bulk, in this state or  
4 was the first importer of such fuel into this state, or (e)  
5 as otherwise provided in this section. Such producer, supplier,  
6 distributor, wholesaler, or importer shall remit such tax to the  
7 department.

8 (2) As part of filing the return required by section  
9 66-488, each producer of ethanol shall, in addition to other  
10 taxes imposed by the motor fuel laws, pay an excise tax of one  
11 and one-quarter cents per gallon through December 31, 2004, and  
12 commencing January 1, 2010, and two and one-half cents per gallon  
13 commencing January 1, 2005, through December 31, 2009, on natural  
14 gasoline purchased for use as a denaturant by the producer at  
15 an ethanol facility. All taxes, interest, and penalties collected  
16 under this subsection shall be remitted to the State Treasurer  
17 for credit to the Agricultural Alcohol Fuel Tax Fund, except that  
18 commencing January 1, 2005, through December 31, 2009, one and  
19 one-quarter cents per gallon of such excise tax shall be credited  
20 to the Ethanol Production Incentive Cash Fund. For fiscal years  
21 2007-08 through 2011-12, if the total receipts from the excise  
22 tax authorized in this subsection and designated for deposit in  
23 the Agricultural Alcohol Fuel Tax Fund exceed five hundred fifty  
24 thousand dollars, the State Treasurer shall deposit amounts in  
25 excess of five hundred fifty thousand dollars in the Ethanol

1 Production Incentive Cash Fund.

2 (3)(a) Motor fuels, methanol, and all blending agents  
3 or fuel expanders shall be exempt from the taxes imposed by this  
4 section and sections 66-4,105, 66-4,140, 66-4,145, and 66-4,146 and  
5 section 11 of this act, when the fuels are used for buses equipped  
6 to carry more than seven persons for hire and engaged entirely in  
7 the transportation of passengers for hire within municipalities or  
8 within a radius of six miles thereof.

9 (b) The owner or agent of any bus equipped to carry  
10 more than seven persons for hire and engaged entirely in the  
11 transportation of passengers for hire within municipalities, or  
12 within a radius of six miles thereof, in lieu of the excise tax  
13 provided for in this section, shall pay an equalization fee of a  
14 sum equal to twice the amount of the registration fee applicable to  
15 such vehicle under the laws of this state. Such equalization fee  
16 shall be paid in the same manner as the registration fee and be  
17 disbursed and allocated as registration fees.

18 (c) Nothing in this section shall be construed as  
19 permitting motor fuels to be sold tax exempt. The department  
20 shall refund tax paid on motor fuels used in buses deemed exempt by  
21 this section.

22 (4) Natural gasoline purchased for use as a denaturant  
23 by a producer at an ethanol facility as defined in section 66-1333  
24 shall be exempt from the motor fuels tax imposed by subsection (1)  
25 of this section as well as the tax imposed pursuant to sections

1 66-4,140, 66-4,145, and 66-4,146 and section 11 of this act.

2 (5) Unless otherwise provided by an agreement entered  
3 into between the State of Nebraska and the governing body of any  
4 federally recognized Indian tribe within the State of Nebraska,  
5 motor fuels purchased on a Nebraska Indian reservation where the  
6 purchaser is a Native American who resides on the reservation shall  
7 be exempt from the motor fuels tax imposed by this section as well  
8 as the tax imposed pursuant to sections 66-4,140, 66-4,145, and  
9 66-4,146 and section 11 of this act.

10 (6) Motor fuels purchased for use by the United States  
11 Government or its agencies shall be exempt from the motor fuels  
12 tax imposed by this section as well as the tax imposed pursuant to  
13 sections 66-4,140, 66-4,145, and 66-4,146 and section 11 of this  
14 act.

15 (7) In the case of diesel fuel, there shall be no tax on  
16 the motor fuels reported if (a) the diesel fuel has been indelibly  
17 dyed and chemically marked in accordance with regulations issued by  
18 the Secretary of the Treasury of the United States under 26 U.S.C.  
19 4082 or (b) the diesel fuel contains a concentration of sulphur  
20 in excess of five-hundredths percent by weight or fails to meet  
21 a cetane index minimum of forty and has been indelibly dyed in  
22 accordance with regulations promulgated by the Administrator of the  
23 Environmental Protection Agency pursuant to 42 U.S.C. 7545.

24 (8) The changes made to this section by this legislative  
25 bill apply for tax periods beginning on and after July 1, 2009.

1           Sec. 6. Section 66-489.01, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           66-489.01 Methanol, benzine, benzol, naphtha, kerosene,  
4 and any other volatile, flammable, or combustible liquid suitable  
5 for use as a motor fuels blending agent or fuel expander shall  
6 be exempt from the taxes imposed under sections 66-489, 66-4,105,  
7 66-4,140, 66-4,145, and 66-4,146 and section 11 of this act unless  
8 and until such methanol, benzine, benzol, naphtha, kerosene, or  
9 other blending agent or fuel expander is blended with motor fuels  
10 or placed directly into the supply tank of a licensed motor  
11 vehicle. Any person blending such products with motor fuels or  
12 placing such products into the supply tank of a licensed motor  
13 vehicle shall pay the taxes imposed under such sections directly  
14 to the department on forms provided by the department at the same  
15 time as the motor fuels with which it is blended become subject  
16 to taxation or, if the tax imposed on the motor fuels has already  
17 been paid, upon blending. The taxes imposed by this section shall  
18 not apply to fuel additives which are used to enhance engine  
19 performance or prevent fuel line freezing or clogging when placed  
20 directly into the supply tank of a motor vehicle in quantities of  
21 one quart or less.

22           Sec. 7. Section 66-495.01, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           66-495.01 (1) Except as provided in subsection (5) of  
25 this section, the fuel supply tank of a motor vehicle registered

1 or required to be registered for operation on the highway shall  
2 not contain or be used with undyed diesel fuel that has not been  
3 taxed or diesel fuel which contains any evidence of the dye or  
4 chemical marker added pursuant to the regulations promulgated under  
5 26 U.S.C. 4082 or 42 U.S.C. 7545 indicating untaxed low-sulphur or  
6 high-sulphur diesel fuel.

7 (2) No retailer of diesel fuel shall sell or offer  
8 to sell diesel fuel that contains any evidence of the dye or  
9 chemical marker added pursuant to the regulations promulgated under  
10 26 U.S.C. 4082 or 42 U.S.C. 7545 indicating untaxed low-sulphur  
11 or high-sulphur diesel fuel unless the fuel dispensing device is  
12 clearly marked with a notice that the fuel is dyed or chemically  
13 marked.

14 (3) Any law enforcement officer, any carrier enforcement  
15 officer, or any agent of the department who has reasonable grounds  
16 to suspect a violation of this section may inspect the fuel in  
17 the fuel supply tank of any motor vehicle or the fuel storage  
18 facilities and dispensing devices of any diesel fuel retailer  
19 to determine compliance with this section. Fuel inspections may  
20 also be conducted in the course of safety or other inspections  
21 authorized by law.

22 (4) Any person who violates any provision of this section  
23 or who refuses to permit an inspection authorized by this section  
24 shall be guilty of a Class IV misdemeanor and shall be subject  
25 to an administrative penalty of two hundred fifty dollars for the

1 first such violation. If the person had another violation under  
2 this section within the last five years, the person shall be  
3 subject to an administrative penalty of one thousand dollars for  
4 the current violation. If the person had two or more violations  
5 under this section within the last five years, the person shall be  
6 subject to an administrative penalty of two thousand five hundred  
7 dollars for the current violation. All such penalties shall be  
8 assessed against the owner of the vehicle as of the date of the  
9 violation. The penalty shall be assessed and collected by the  
10 department. All such penalties collected shall be remitted to the  
11 State Treasurer for credit to the Highway Trust Fund.

12 (5) Any motor vehicle owned or leased by any state,  
13 county, municipality, or other political subdivision may be  
14 operated on the highways of this state with dyed diesel fuel,  
15 except high-sulphur diesel fuel dyed in accordance with regulations  
16 promulgated by the Administrator of the Environmental Protection  
17 Agency pursuant to 42 U.S.C. 7545, if the taxes imposed by sections  
18 66-482 to 66-4,149 and section 11 of this act are paid to the  
19 department by the state, county, municipality, or other political  
20 subdivision. The state, county, municipality, or other political  
21 subdivision shall pay the tax and file a return concerning the tax  
22 to the department in like manner and form as is required under  
23 sections 66-4,105 and 66-4,106 and section 11 of this act.

24 (6) For purposes of this section:

25 (a) Owner means registered owner, titleholder, lessee

1 entitled to possession of the motor vehicle, or anyone otherwise  
2 maintaining a possessory interest in the motor vehicle, but does  
3 not include anyone who, without participating in the use or  
4 operation of the motor vehicle and otherwise not engaged in the  
5 purpose for which the motor vehicle is being used, holds indicia  
6 of ownership primarily to protect his or her security interest in  
7 the motor vehicle or who acquired ownership of the motor vehicle  
8 pursuant to a foreclosure of a security interest in the motor  
9 vehicle; and

10 (b) Use means to operate, fuel, or otherwise employ.

11 Sec. 8. Section 66-499, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 66-499 Unless otherwise provided, all sums of money  
14 received under sections 66-489 and 66-4,105 by the State Treasurer  
15 shall be credited to the Highway Trust Fund. Credits and refunds  
16 of the tax provided for in such sections allowed to producers,  
17 suppliers, distributors, wholesalers, exporters, importers, or  
18 retailers shall be paid from the Highway Trust Fund. The balance of  
19 the amount credited, after credits and refunds, shall be allocated  
20 to the Highway Cash Fund.

21 Sec. 9. Section 66-4,103, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 66-4,103 The provisions of sections 66-482 to 66-4,103  
24 and section 11 of this act shall not apply or be construed to apply  
25 to foreign or interstate commerce, except insofar as the same may

1 be permitted under the provisions of the Constitution and laws of  
2 the United States.

3 Sec. 10. Section 66-4,105, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 66-4,105 There is hereby levied and imposed an excise  
6 tax of ~~ten~~ seven and one-half cents per gallon, increased by the  
7 amounts imposed or determined under sections 66-4,140, 66-4,145,  
8 and 66-4,146 and section 11 of this act, upon the use of all  
9 motor fuels used in this state and due the State of Nebraska under  
10 section 66-489. Users of motor fuels subject to taxation under  
11 this section shall be allowed the same exemptions, deductions,  
12 and rights of reimbursement as are authorized and permitted by  
13 Chapter 66, article 4, other than any commissions provided under  
14 such article. For purposes of this section and section 66-4,106,  
15 use shall mean the purchase or consumption of motor fuels in this  
16 state. The changes made to this section by this legislative bill  
17 apply for tax periods beginning on and after July 1, 2009.

18 Sec. 11. (1) For tax periods beginning on and after  
19 July 1, 2009, at the time of filing the return required by  
20 section 66-488, the producer, supplier, distributor, wholesaler, or  
21 importer shall, in addition to the other taxes provided for by law,  
22 pay a tax at the rate of five percent of the average wholesale  
23 price of gasoline for the gallons of the motor fuels as shown  
24 by the return, except that there shall be no tax on the motor  
25 fuels reported if they are otherwise exempted by sections 66-482 to

1 66-4,149.

2 (2) The department shall calculate the average wholesale  
3 price of gasoline on April 1, 2009, and on each April 1 and  
4 October 1 thereafter. The average wholesale price on April 1 shall  
5 apply to returns for the tax periods beginning on and after July  
6 1, and the average wholesale price on October 1 shall apply to  
7 returns for the tax periods beginning on and after January 1. The  
8 average wholesale price shall be determined using data available  
9 from the Energy Information Administration of the United States  
10 Department of Energy and shall be a single, statewide average  
11 wholesale price per gallon of gasoline sold in the state over the  
12 previous six-month period, excluding any state or federal excise  
13 tax or environmental fees. The change in the average wholesale  
14 price between two six-month periods shall be adjusted so that the  
15 increase or decrease in the tax provided for in this section or  
16 section 17 of this act does not exceed one cent per gallon.

17 (3) All sums of money received under this section shall  
18 be credited to the Highway Trust Fund. Credits and refunds of such  
19 tax allowed to producers, suppliers, distributors, wholesalers, or  
20 importers shall be paid from the Highway Trust Fund. The balance of  
21 the amount credited, after credits and refunds, shall be allocated  
22 as follows:

23 (a) Sixty-six percent to the Highway Cash Fund for the  
24 Department of Roads;

25 (b) Seventeen percent to the Highway Allocation Fund for

1 allocation to the various counties for road purposes; and

2 (c) Seventeen percent to the Highway Allocation Fund for  
3 allocation to the various municipalities for street purposes.

4 Sec. 12. Section 66-4,114, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 66-4,114 Motor fuels in the supply tank of any qualified  
7 motor vehicle as defined in section 66-1416 which is regularly  
8 connected with the carburetor of the engine of any such vehicle and  
9 which is brought into this state shall be liable for the payment  
10 of the tax imposed by this state upon motor fuels under sections  
11 66-489 and 66-4,105 and section 11 of this act except when a trip  
12 permit is used as provided in the International Fuel Tax Agreement  
13 Act.

14 Sec. 13. Section 66-4,145, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16 66-4,145 In addition to the tax imposed by sections  
17 66-489 and 66-4,140 and section 11 of this act, each producer,  
18 supplier, distributor, wholesaler, and importer required by section  
19 66-489 to pay motor fuels taxes shall pay an excise tax of two  
20 and eight-tenths cents per gallon on all motor fuels received,  
21 imported, produced, refined, manufactured, blended, or compounded  
22 by such producer, supplier, distributor, wholesaler, or importer  
23 within the State of Nebraska. The changes made to this section by  
24 this legislative bill apply for tax periods beginning on and after  
25 July 1, 2009.

1           Sec. 14. Section 66-4,146, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           66-4,146 In addition to the tax imposed by sections  
4 66-489, 66-4,140, and 66-4,145 and section 11 of this act, each  
5 producer, supplier, distributor, wholesaler, and importer required  
6 by section 66-489 to pay motor fuels taxes shall pay an excise tax  
7 of two and eight-tenths cents per gallon on all motor fuels used  
8 in the State of Nebraska. The changes made to this section by this  
9 legislative bill apply for tax periods beginning on and after July  
10 1, 2009.

11          Sec. 15. Section 66-697, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13          66-697 Sections 66-697 to 66-6,116 and section 17 of this  
14 act shall be known and may be cited as the Compressed Fuel Tax Act.

15          Sec. 16. Section 66-6,107, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17          66-6,107 In addition to the tax imposed pursuant to  
18 sections 66-6,108 and 66-6,109 and section 17 of this act, an  
19 excise tax of ~~ten~~ seven and one-half cents per gallon or gallon  
20 equivalent is levied and imposed on all compressed fuel sold for  
21 use in registered motor vehicles. The changes made to this section  
22 by this legislative bill apply for tax periods beginning on and  
23 after July 1, 2009.

24          Sec. 17. (1) For tax periods beginning on and after July  
25 1, 2009, at the time of filing the return required by section

1 66-6,110, the retailer shall, in addition to the other taxes  
2 provided for by law, pay a tax at the rate of five percent of the  
3 average wholesale price of gasoline calculated pursuant to section  
4 11 of this act for the gallons of the compressed fuel as shown by  
5 the return, except that there shall be no tax on the compressed  
6 fuel reported if it is otherwise exempted by the Compressed Fuel  
7 Tax Act.

8 (2) All sums of money received under this section shall  
9 be credited to the Highway Trust Fund. Credits and refunds of such  
10 tax allowed to producers, suppliers, distributors, wholesalers, or  
11 importers shall be paid from the Highway Trust Fund. The balance of  
12 the amount credited, after credits and refunds, shall be allocated  
13 as follows:

14 (a) Sixty-six percent to the Highway Cash Fund for the  
15 Department of Roads;

16 (b) Seventeen percent to the Highway Allocation Fund for  
17 allocation to the various counties for road purposes; and

18 (c) Seventeen percent to the Highway Allocation Fund for  
19 allocation to the various municipalities for street purposes.

20 Sec. 18. Section 66-6,109, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 66-6,109 In addition to the tax imposed by sections  
23 66-6,107 and 66-6,108 and section 17 of this act, each retailer  
24 shall pay an excise tax of two and eight-tenths cents per gallon  
25 or gallon equivalent on all compressed fuel sold for use in

1 registered motor vehicles. The changes made to this section by this  
2 legislative bill apply for tax periods beginning on and after July  
3 1, 2009.

4 Sec. 19. Section 66-6,111, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 66-6,111 The ~~tax imposed by the Compressed Fuel Tax Act~~  
7 taxes imposed by sections 66-6,107, 66-6,108, and 66-6,109 shall be  
8 computed by each retailer by multiplying the tax rate established  
9 in sections 66-6,107, 66-6,108, and 66-6,109 by the number of  
10 gallons or gallon equivalents of compressed fuel sold for use in  
11 registered motor vehicles.

12 Sec. 20. Section 66-726, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 66-726 (1) The department may adjust all errors in  
15 payment, refund tax paid on motor fuel destroyed, refund tax  
16 overpaid on motor fuel, and refund an amount equal to the  
17 per-gallon tax imposed by this state on sales of motor fuel  
18 on which tax was paid in this state but which was sold in a state  
19 other than Nebraska.

20 (2)(a) Motor fuels shall be exempt from the taxes imposed  
21 by sections 66-489, 66-4,105, 66-4,140, 66-4,145, and 66-4,146 and  
22 section 11 of this act when the fuels are used for agricultural,  
23 quarrying, industrial, or other nonhighway use.

24 (b) The department shall refund tax paid on motor fuels  
25 used for an exempt purpose. The purchaser of tax-paid motor fuels

1 used for an exempt purpose shall file a claim for refund with the  
2 department on forms prescribed by the department and shall provide  
3 such documentation and maintain such records as the department  
4 reasonably requires to substantiate that the fuels were used for  
5 exempt purposes.

6 (c) The refund claim shall include: (i) The name  
7 of claimant; (ii) the make, horsepower, and other mechanical  
8 description of machinery in which the motor fuels were used; (iii)  
9 a statement as to the source or place of business where such  
10 motor fuels, used solely for agricultural, quarrying, industrial,  
11 or other nonhighway uses, were acquired; that no part of such motor  
12 fuels were used in propelling licensed motor vehicles; and that  
13 the motor fuels for which refund of the tax thereon is claimed  
14 were used solely for agricultural, quarrying, industrial, or other  
15 nonhighway uses; and (iv) any other information deemed necessary by  
16 the department.

17 (d) The department shall deduct (i) from each claim for  
18 refund of tax paid on purchases of motor vehicle fuels under this  
19 subsection two and one-quarter cents per gallon through December  
20 31, 2004, and commencing January 1, 2010, and three and one-half  
21 cents per gallon commencing January 1, 2005, through December 31,  
22 2009, of the tax paid and (ii) from each claim for refund of tax  
23 paid on purchases of diesel fuel under this subsection one cent per  
24 gallon of the tax paid.

25 (e) The department shall transmit monthly to the State

1 Treasurer a report of the number of gallons of motor vehicle fuel  
2 for which refunds have been approved under this subsection. Through  
3 December 31, 2004, and commencing January 1, 2010, the State  
4 Treasurer shall thereupon transfer from the Highway Trust Fund to  
5 the Agricultural Alcohol Fuel Tax Fund one and one-quarter cents  
6 per gallon approved for refund, and commencing January 1, 2005,  
7 through December 31, 2009, the State Treasurer shall thereupon  
8 transfer from the Highway Trust Fund (a) to the Ethanol Production  
9 Incentive Cash Fund one and one-quarter cents per gallon approved  
10 for refund and (b) to the Agricultural Alcohol Fuel Tax Fund one  
11 and one-quarter cents per gallon approved for refund.

12 (3) No refund shall be allowed unless a claim is filed  
13 setting forth the circumstances by reason of which refund should be  
14 allowed. Such claim shall be filed with the department within three  
15 years from the date of the payment of the tax.

16 (4) In each calendar year, no claim for refund related to  
17 motor vehicle fuel, diesel fuel, aircraft fuel, or compressed fuel  
18 can be for an amount less than twenty-five dollars.

19 (5) The department shall administer and enforce this  
20 section. The department may call to its aid when necessary any  
21 member of the Nebraska State Patrol, any police officer, any county  
22 attorney, or the Attorney General. The employees of the department  
23 are empowered to stop and inspect motor vehicles, to inspect  
24 premises, and temporarily to impound motor vehicles or motor fuels  
25 when necessary to administer this section.

1           (6) The department may adopt and promulgate such rules  
2 and regulations as are necessary for the prompt and effective  
3 enforcement of this section.

4           (7) Any claimant for refund of motor fuels tax under this  
5 section who is unable to produce the original copy of any invoice  
6 to substantiate the refund for the reason that the same has been  
7 lost, mutilated, or destroyed may make proof of his or her claim  
8 by affidavit and such other evidence as may be required by the  
9 department, and if such claim is verified by investigation, such  
10 claim may be allowed.

11           (8) The changes made to this section by Laws 2004, LB  
12 983, apply to motor fuels purchased during any tax year ending  
13 or deemed to end on or after January 1, 2005, under the Internal  
14 Revenue Code.

15           Sec. 21. Section 84-612, Revised Statutes Supplement,  
16 2007, is amended to read:

17           84-612 (1) There is hereby created within the state  
18 treasury a fund known as the Cash Reserve Fund which shall be under  
19 the direction of the State Treasurer. The fund shall only be used  
20 pursuant to this section.

21           (2) The State Treasurer shall transfer funds from the  
22 Cash Reserve Fund to the General Fund upon certification by the  
23 Director of Administrative Services that the current cash balance  
24 in the General Fund is inadequate to meet current obligations. Such  
25 certification shall include the dollar amount to be transferred.

1 Any transfers made pursuant to this subsection shall be reversed  
2 upon notification by the Director of Administrative Services that  
3 sufficient funds are available.

4 (3) The State Treasurer, at the direction of the  
5 budget administrator of the budget division of the Department  
6 of Administrative Services, shall transfer such amounts not to  
7 exceed seven million seven hundred fifty-three thousand two hundred  
8 sixty-three dollars in total from the Cash Reserve Fund to the  
9 Nebraska Capital Construction Fund between July 1, 2003, and June  
10 30, 2007.

11 (4) The State Treasurer, at the direction of the budget  
12 administrator, shall transfer an amount equal to the total amount  
13 transferred pursuant to subsection (3) of this section from the  
14 General Fund to the Cash Reserve Fund on or before June 30, 2008.

15 (5) In addition to receiving transfers from other funds,  
16 the Cash Reserve Fund shall receive federal funds received by the  
17 State of Nebraska for undesignated general government purposes,  
18 federal revenue sharing, or general fiscal relief of the state.

19 (6) On June 15, 2007, the State Treasurer shall transfer  
20 fifteen million six hundred seventy-four thousand one hundred seven  
21 dollars from the Cash Reserve Fund to the General Fund.

22 (7) On June 16, 2008, the State Treasurer shall transfer  
23 seventeen million nine hundred thirty-one thousand thirty dollars  
24 from the Cash Reserve Fund to the General Fund.

25 (8) On June 15, 2009, the State Treasurer shall transfer

1 four million nine hundred ninety thousand five hundred five dollars  
2 from the Cash Reserve Fund to the General Fund.

3 (9) On or before June 16, 2008, the State Treasurer, at  
4 the direction of the budget administrator, shall transfer fifty  
5 million dollars from the Cash Reserve Fund to the General Fund.

6 (10) On or before June 16, 2009, the State Treasurer,  
7 at the direction of the budget administrator, shall transfer fifty  
8 million dollars from the Cash Reserve Fund to the General Fund.

9 (11) From the effective date of an endowment agreement  
10 as defined in subdivision (3)(c) of section 79-1101 until June  
11 30, 2007, forty million dollars of the Cash Reserve Fund shall be  
12 deemed to constitute the Early Childhood Education Endowment Fund.  
13 Such funds shall remain part of the Cash Reserve Fund for all  
14 purposes, except that the interest earned on such forty million  
15 dollars shall accrue as provided in section 84-613.

16 (12) The State Treasurer, at the direction of the budget  
17 administrator, shall transfer such amounts, as certified by the  
18 Director of Administrative Services, for employee health insurance  
19 claims and expenses, not to exceed twelve million dollars in total  
20 from the Cash Reserve Fund to the State Employees Insurance Fund  
21 between May 1, 2007, and June 30, 2011.

22 (13) On July 9, 2007, the State Treasurer shall transfer  
23 twelve million dollars from the Cash Reserve Fund to the Nebraska  
24 Capital Construction Fund.

25 (14) On July 9, 2007, the State Treasurer shall transfer

1 five million dollars from the Cash Reserve Fund to the Job Training  
2 Cash Fund. The State Treasurer shall transfer from the Job Training  
3 Cash Fund to the Cash Reserve Fund such amounts as directed in  
4 section 81-1201.21.

5 (15) On July 7, 2008, the State Treasurer shall transfer  
6 five million dollars from the Cash Reserve Fund to the Job Training  
7 Cash Fund. The State Treasurer shall transfer from the Job Training  
8 Cash Fund to the Cash Reserve Fund such amounts as directed in  
9 section 81-1201.21.

10 (16) On or before August 1, 2007, the State Treasurer,  
11 at the direction of the budget administrator, shall transfer  
12 seventy-five million dollars from the Cash Reserve Fund to the  
13 Nebraska Capital Construction Fund.

14 (17) On or before June 30, 2009, the State Treasurer  
15 shall transfer nine million five hundred ninety thousand dollars  
16 from the Cash Reserve Fund to the Nebraska Capital Construction  
17 Fund.

18 (18) The State Treasurer, at the direction of the budget  
19 administrator, shall transfer an amount equal to the total amount  
20 transferred pursuant to subsection (12) of this section from  
21 the appropriate health insurance accounts of the State Employees  
22 Insurance Fund in such amounts as certified by the Director of  
23 Administrative Services to the Cash Reserve Fund on or before June  
24 30, 2011.

25 (19) On July 9, 2007, the State Treasurer shall

1 transfer one million dollars from the Cash Reserve Fund to the  
2 Microenterprise Development Cash Fund.

3 (20) On July 9, 2007, the State Treasurer shall transfer  
4 two hundred fifty thousand dollars from the Cash Reserve Fund to  
5 the Building Entrepreneurial Communities Cash Fund.

6 (21) On July 7, 2008, the State Treasurer shall  
7 transfer one million dollars from the Cash Reserve Fund to the  
8 Microenterprise Development Cash Fund.

9 (22) On July 7, 2008, the State Treasurer shall transfer  
10 two hundred fifty thousand dollars from the Cash Reserve Fund to  
11 the Building Entrepreneurial Communities Cash Fund.

12 (23) On July 7, 2009, the State Treasurer shall transfer  
13 five million dollars from the Cash Reserve Fund to the Roads  
14 Operations Cash Fund. The Department of Roads shall use such  
15 funds to provide the required state match for federal funding made  
16 available to the state through congressional earmarks.

17 (24) On July 7, 2010, the State Treasurer shall transfer  
18 five million dollars from the Cash Reserve Fund to the Roads  
19 Operations Cash Fund. The Department of Roads shall use such  
20 funds to provide the required state match for federal funding made  
21 available to the state through congressional earmarks.

22 (25) On July 7, 2011, the State Treasurer shall transfer  
23 five million dollars from the Cash Reserve Fund to the Roads  
24 Operations Cash Fund. The Department of Roads shall use such  
25 funds to provide the required state match for federal funding made

1 available to the state through congressional earmarks.

2           Sec. 22. Sections 5, 8, 10, 13, 14, 16, 18, and 23 of  
3 this act become operative on July 1, 2009. The other sections of  
4 this act become operative on their effective date.

5           Sec. 23. Original section 66-6,109, Reissue Revised  
6 Statutes of Nebraska, sections 66-499, 66-4,105, 66-4,145,  
7 66-4,146, and 66-6,107, Revised Statutes Cumulative Supplement,  
8 2006, and section 66-489, Revised Statutes Supplement, 2007, are  
9 repealed.

10           Sec. 24. Original sections 66-4,103 and 66-697, Reissue  
11 Revised Statutes of Nebraska, sections 39-2215, 66-482, 66-485,  
12 66-488, 66-489.01, 66-495.01, 66-4,114, 66-6,111, and 66-726,  
13 Revised Statutes Cumulative Supplement, 2006, and section 84-612,  
14 Revised Statutes Supplement, 2007, are repealed.